



State of Delaware
Clean Water Advisory Council
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Minutes of the 88th Meeting

January 21, 2009

The Delaware Clean Water Advisory Council met Wednesday, January 21, 2009 at 9:00 a.m., at Delaware Technical and Community College, Education and Technology Building, Conference Room 727, 100 Campus Drive, Dover, Delaware.

MEMBERS PRESENT:

Roger Roy, Chairman
Jeff Bross, Vice-Chairman
Lee Beetschen
Gary Burcham
Andy Burger
Mike Karia
Andrew Manus
Chris O'Keefe
Robert Stickels

OTHERS PRESENT WERE:

Terry Deputy, Division of Water Resources
Daisy Lopez, Division of Water Resources
Frank Piorko, Division of Soil and Water Conservation
Greg Pope, Division of Water Resources
Kathy Bunting-Howarth, Division of Water Resources
Davison Mwale, Division of Water Resources
Kevin Donnelly, New Castle County Conservation District
Diana Galt, Kent County Public Works
David Athey, URS
Janice Stickels
Honorable Sam Cooper, Mayor, City of Rehoboth Beach
Stan Mills, Commissioner of Rehoboth Beach
Ken Branner, Artesian Water
Rodney Wyatt, Artesian Water
John Ashman, Sussex County
Rip Copithorn, Stearns & Wheler
Keith Rudy, McCrane Inc
Jennifer Adkins, Partnership for the Delaware Estuary
Bob Zimmerman, DNREC, Office of the Secretary
Jerry Kauffman, University of Delaware, Water Resource Agency

CALL TO ORDER

The meeting came to order at 9:05 a.m.

APPROVAL OF THE AGENDA

Motion made by Mr. Manus and seconded by Mr. Bross to approve the agenda. Agenda approved unanimously.

APPROVAL OF MINUTES – No Meeting Minutes due to Lack of Quorum on December 17, 2008

Due to lack of a quorum at the December 17, 2008 meeting, no minutes were submitted for approval, however, since the November 17, 2008 minutes were not approved, a motion was made for approval of those minutes.

Motion made by Mr. Beetschen and seconded by Mr. Burcham to approve the November minutes. Motion passed unanimously.

INTRODUCTIONS

Introductions made by everyone present.

REPORTS

A. Surface Water

Ms. Campagnini who was working with the Stormwater and Drainage program and provided support to the Council has relocated to DNREC's Office of the Secretary and will no longer be available to assist the Council. The position she vacated will not be filled immediately.

The Governor's recommended budget reduced funding for the Tax Ditch Drainage Fund and no new funds were specifically identified for the 21st Century Fund drainage program.

The Kent County Level of Service Analysis contracted to URS is nearing completion. Several meetings have been held with the Kent County Levy Court and Conservation District; the response from the community has been good. The Analysis should be completed in February or early March. It is important that the Council make a recommendation to the next Secretary of DNREC that a meeting with New Castle County and the Governor's Executive Team be held to discuss the Stormwater Utility Planning project.

Mr. Piorko stated that he had a meeting with Mr. Deputy and Ms. Bunting-Howarth to discuss getting more types of Water Quality Infrastructure projects that are eligible for funding through the State Revolving Loan fund.

OLD BUSINESS

None

NEW BUSINESS

Non-Federal Administrative Fund – Current and Proposed Uses

The CWSRF program currently charges a 1% fee for all municipal wastewater loans. These funds are managed separately from the corpus of the CWSRF fund; they are subject to EPA regulations; and must be used for water quality purposes. Fees charged on municipal loans must be identified in the CWSRF Intend Use Plan (IUP), and must identify the type of fee charged, the fee rate, fee uses and the amount of fees available. The CWSRF Annual Report must also identify the use of fees charged for loans.

Current uses of Non-Federal Administrative funds are to supplement the administrative costs of the CWSRF program and to fund the salary for a contractual employee in the Holding Tank Enforcement program. The Division of Water Resources proposes additional uses for the Non-Federal Administrative funds that are consistent with EPA's intent that these funds be used for water quality purposes. The additional use requires the amendment of 2009 IUP and include: \$1.0 million per year beginning in FY 2010 for the CWSRF state match until 2014; funding for six Division of Water Resources positions, the funding source will be switched back to General Funds after 2014; \$500,000 per year for the revised SEFO loan program for six years for a total of \$3.0 million; \$2.0 million to capitalize a Planning and Design Short-Term Revolving Loan Fund; and \$500,000 per year starting in FY 2010 through FY 2014 for Community Water Quality Project Grants.

Terry Deputy, CWSRF Administrator presented two spreadsheets for the Non-Federal Administrative Account with existing and projected revenue and expenses from fiscal years 2006 through 2014. The revenues and expenses were based on the following conservative estimates.

- Investment interest remaining constant
- Administrative fees increasing by 1 percent per year
- FAB administrative expenses and overhead increasing by 10 percent per year
- Proposed Division of Water Resource salaries increasing by 10 percent per year

Based on the existing use of the Non-Federal Administrative Account and the above conservative estimates, starting in fiscal year 2009 the balance of the account was estimated to increase from approximately \$9 million to \$13.4 million by end of fiscal year 2014. With the proposed additional uses, the estimated balance of the account in fiscal year 2009 would be approximately \$8.5 million increasing to approximately \$10.7 million by the end of fiscal year 2010. The second spreadsheet showed the increase of \$1.0 million in the annual account balance as a result of not funding the state match.

Based on the spreadsheet presented, Mr. Deputy informed the Council that the Non-Federal Administrative Account could be sustainable over time with the current and proposed uses. He recommended that the Council review the Account annual to ensure that existing fund use can be supported before adding any additional proposed uses.

It was asked that for the Council's verification to explain where the six positions to be funded reside within DNREC. It was also asked to describe the functions of these positions as well. The positions and their functions within the various sections of the Division of Water Resources were explained.

A question was raised as to how these positions are currently funded. It was stated that the positions are currently funded through General funds.

It was stated that the Division of Water Resources was given an exercise to look at its operations and come up with a budget that is 15% less than last year's budget. This Division is a highly fee funded and hasn't had a fee increase since 1991.

There were discussions and concerns raised in funding the six positions and it was stated that once the positions are switched over, it will be difficult to switch them back in 2014. The Council was also concerned that planning to fund the positions for 4 years is too long and suggested that they review this issue once a year. The Council members were also concerned that they were not aware that this money was sitting in an account and haven't had a chance to seek opportunities to use these funds.

The Council also discussed the possibility of having a fee increase review submitted to the General Assembly. It was stated that the issue is being presented to the Governor and is awaiting direction from the Governor's office as to whether or not a Bill will be prepared for the General Assembly, but it is always a possibility that the General Assembly will not approve a fee increase.

It was suggested that this fund also include some planning grant money for wastewater and surface water; that the vacant storm water position that supported the Council be filled; and that a review of the funding for the six positions be conducted yearly instead of waiting until 2014.

Motion by Mr. Bross and seconded by Mr. Karia and Mr. Burcham to adopt this recommendation subject to the following provisions:

1. The program be reviewed by Council annually;
2. That the recommendation include planning grant monies on an annual basis in the amount of \$150,000 for Wastewater and \$100,000 for Surface Water;
3. The allocation for salaries be flexible for the Department with the exception that the Surface Water Planner position vacant be filled using those funds;
4. That the Secretary recommend to the General Assembly that it is the opinion of this Council that the fee structure needs to be reevaluated; and
5. That the planning grants have a 50% match.

Motion passed with 8 voting yes. Mr. Manus abstained from voting.

Federal Stimulus Update

The Economic Stimulus package may be available in early February. Delaware's allocation of CWSRF stimulus funds is expected to be ½ of 1%, which is about \$30 million. In the proposed House Bill, Delaware will have 120 to 180 days to enter into a Binding Commitments/Loan Agreements for wastewater construction projects. The Financial Assistance Branch has received 7 loan applications for CWSRF funding assistance totaling \$18 million.

The 2010-wastewater project-funding requests (Notices-of-Intent) are due by January 30, 2009. New Castle County reports that they have wastewater projects that can be ready for construction by June 2009 that will total \$44.4 million; Sussex County reports that they have wastewater projects that can be ready for construction by June 2009 that will total \$16.3 million.

The estimated schedule for the 2010 Project Priority List (PPL) and Intended Use Plan (IUP) development is as follows:

- January – Solicitation of Notice-of-Intent from Municipalities
- February – Ranking of the PPL
- March – PPL and IUP Public Hearing; EPA approval; Environmental Reviews for ready to proceed projects.

This topic will be discussed in more detail at the February 25, 2009 Clean Water Advisory Council meeting.

Wastewater Planning Grant Request

Sussex County requested a Regional Wastewater Planning Grant in the amount of \$36,674; the total cost for the plan is \$73,348. February 1, 2009 is the proposed start date for the project and the expected completion date is April 30, 2009. The consultant for this project is Whitman, Requardt and Associates, LLP.

The wastewater plan is a joint project between Sussex County and the City of Rehoboth. The planning study will evaluate treating wastewater flows from the City of Rehoboth Beach Wastewater Treatment Plant in one of two ways:

1. Untreated wastewater collected and pumped to the Wolfe Neck Regional Wastewater Facility (WNRWF) for some combination of treatment and disposal or transmission to the Inland Bays Regional Wastewater Facility (IBRWF); or
2. Treated effluent from the plant can be pumped to the WNRWF for disposal.

Regardless of the two options, untreated wastewater from the West Rehoboth sewer district will be pumped to the WNRWF for a combination of treatment and disposal or transmission to the IBRWF.

Motion made by Mr. Karia and seconded by Mr. Beetschen to approve the request. Motion passed. Council member Robert Stickels was not present to vote.

City of Newark – Emergency Project Request

The City of Newark submitted an emergency funding request to relocate two sanitary sewer lines crossings the Christina Creek. An emergency situation exists due to exposed sewer lines that cross the Christina Creek above grade. Floating trees and debris caused by significant storm events have the potential to damage the sewer lines and can cause release of raw sewage into the Christina Creek.

Approval of this project will allow the City of Newark to relocate the sewer lines below the stream eliminating the possibility that lines could be damaged. After reviewing the loan application, it was determined that this project meets all the applicable state environmental laws to warrant a Categorical Exclusion. The total estimated cost for this project is \$1.4 million. It was also stated that if the sewer line breaks, it could threaten downstream water supply.

Motion made by Mr. Bross and seconded by Mr. Karia to approve the request. Motion passed. Council member Robert Stickels was not present to vote.

Future CWAC Meeting Dates

February 25, March 18, April 22, June 17, August 19, October 21, December 16

PUBLIC COMMENT

None

GOOD OF THE COUNCIL

Mr. Bross recognized that Mr. Roy submitted his resignation and thanked the Chairman for his work and leadership on the Council.

ADJOURNMENT

Next meeting will be held on February 25, 2009 at Delaware Technical and Community College, Terry Campus, Conference Room 400A beginning at 9:00 am. Meeting adjourned at 10:35 am.